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REMARKS

Claims 1-17, 29-36, 43-49 and 65-78 are pending in this Application. Claims 65-78 are allowed, while Claims 11-13 are objected to. By this Amendment, Claims 1, 29, 43, 44, 65 and 71 have been amended, and Claims 79-93 have been added. Therefore, Claims 1-17, 29-36, 43-49, 65-93 are at issue.

Allowable & Amended Claims

In paragraph two of the Office Action, Examiner requested a slight correction to allowed independent Claim 71. Applicants have amended Claim 71 accordingly.

In paragraph six of the Office Action, Examiner indicated that dependent Claims 11-13 would be allowable if re-written in independent form. Consistent with Examiner's indication, Applicants have added Claims 79-81 which include the subject matter of allowable claims 11-13. Therefore, Claims 79-81 are allowable according to Examiner's indications.

Additional claims have been added to track the subject matter Examiner has indicated as allowable. Specifically, Applicants have added Claims 82-87, where independent Claim 82 recites the structure of a barbecue grill assembly having a projection with a first portion and a second portion wherein the second portion is affixed to an inner surface of the frame member to which the projection is positioned. This aspect of Claim 82 corresponds to the allowable subject matter identified on page 5 of the Office Action by Examiner (the subject matter of Claim 65). Applicants have also added Claims 88-93, where Claim 88 recites the structure of a barbecue grill assembly having a second frame assembly positioned lateral to a first frame assembly, and a projection with a first portion and a second portion wherein the second portion is affixed to an inner surface of the frame member to which the projection is positioned. Similar to Claim 82, the later aspect of Claim 88 corresponds to the allowable subject matter identified in the Office Action by Examiner. Therefore, added Claims 82-97 are in condition for allowance.

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Claim Rejections - 35 U.S.C. §103

In paragraph four of the Office Action, Examiner rejected Claims 1-10, 14-17, 29-36 and 43-49 under 35 U.S.C. §102 as being obvious over the combination of U.S. Patent No. 5,140,973 to Home ("Home '973") and U.S. Patent No. 5,623,866 to Home ("Home '866"). Applicants traverse the rejection of these Claims.

Applicants incorporate their previous arguments that Examiner has failed to establish a prima facie case of obviousness because there is no suggestion or motivation to combine Home '973 with Home '866. As previously explained, Examiner has not identified a proper motivation to combine the primary reference, Home '973, with the secondary reference, Home '866. In addition, Examiner has combined the teachings of the secondary reference, Home '866, with Home '973 without fully considering the effect of the combination on the second element of the prima facie case - - the expectation of success. *See* MPEP § 2142. The proposed combination of Home '973 and Home '866 dramatically changes the principle of operation of the primary reference and as a result, the prima facie case of obviousness has not been established.

A. Claims 1-10, 14-17

Amended independent Claim 1 is directed to a barbecue grill assembly and requires: an upper frame assembly, the upper assembly having a cooking chamber; a lower frame assembly; at least one projection on an elongated frame member of one of either the lower assembly or the upper assembly, the projection being in linear alignment with the elongated frame member, the projection having a first portion and a second portion; and, at least one receiver on the other of said lower assembly or said upper assembly, the receiver having an inner surface, the projection and the receiver cooperatively dimensioned such that when the projection is received by the receiver, the first portion of the projection is biased against the inner surface of the receiver.

Amended independent claim 1 is not rendered obvious for at least two reasons. First, the combination of Home '973 and Home '866 does not suggest or teach *at least one projection on an elongated frame member of one of either the lower assembly or the upper assembly, the projection being in linear alignment with the elongated frame member*. As shown in Figs. 3, 6 and 7 of the present Application, the projection 48 is in linear alignment with the lower frame member 32. Regarding Home '973, Examiner has construed the projection 41 extending from the leaf spring 4

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as the claimed projection, which is perpendicular to both the upper leg 31 and the lower leg 32, and clearly not in "linear alignment," as required by amended Claim 1. Regarding Home '866, the H-shaped member 11 has no projection, and Examiner has not identified any structure corresponding to the required projection.

Second, the combination of Home '973 and Home '866 does not suggest or teach *the first portion of the projection being biased against the inner surface of the receiver*. As shown in Figs. 6-9 of the present Application, the projection 48 is forcibly biased against the inner surface of the receiver 50. In contrast, Fig. 3 of Home '973 discloses structure wherein the spring 4 biases the projection 41 through the holes 310, 320 of the legs 31, 32 to permit adjustability of the legs 31, 32. (Col. 2, lns. 45-52). Further, in the secondary reference, Home '866, (see Fig. 5) the H-shaped member 11 does not include a projection, and no structure corresponding to the recited "projection" is apparent, or identified by Examiner. Therefore, even if the combination of the references was proper, the combination of Home '973 and Home '866 does not suggest all limitations of amended Claim 1. As a result, amended Claim 1 is allowable over the art of record.

Claims 2-10 and 14-17 depend from amended Claim 1, and thereby require all the limitations of that claim. For the reasons stated in the preceding paragraph, Claims 2-10 and 14-17 are allowable.

B. Claims 29-36

Amended independent claim 29 is directed to a frame for an outdoor cooking device and requires: an upper assembly formed from a plurality of upper elongated frame members, a lower assembly formed from a plurality of lower elongated frame members; at least one projection on one of either the lower or the upper elongated frame member, the projection being in linear alignment with the elongated frame member, the projection having a first portion and a second portion; and, at least one receiver on the other of said lower assembly or said upper assembly, the receiver having an inner surface, the projection and the receiver cooperatively dimensioned such that when the projection is received by the receiver, the first portion of the projection is biased against into contact with the inner surface of the receiver.

As explained above with respect to Claim 1, amended Claim 29 is not rendered obvious since the combination of Home '973 and Home '866 does not suggest *at least one projection on one of*

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either the lower or the upper elongated frame member, the projection being in linear alignment with the elongated frame member. In addition, the combination of Home '973 and Home '866 does not suggest or teach *biasing the first portion of the projection against the inner surface of the receiver.* For each of these reasons, amended Claim 29 is allowable over the combination of Home '973 and Home '866.

Claims 30-36 depend from amended Claim 29, and thereby require all the limitations of that claim. For the reasons stated in the preceding paragraph, Claims 30-36 are allowable.

C. Claims 43-49

Amended independent Claim 43 is directed to a frame assembly for an outdoor cooking device and requires: a first frame assembly; a second frame assembly extending substantially lateral to the first frame assembly; at least one projection on an elongated frame member of one of either the first assembly or the second assembly, the projection being in linear alignment with the elongated frame member, the projection having a first portion and a second portion; and, at least one receiver on the other of said first frame assembly or said second frame assembly, the receiver having an inner surface, the projection and the receiver cooperatively dimensioned such that when the projection is received by the receiver, the first portion of the projection is biased against the inner surface of the receiver.

Consistent with that explained above, amended Claim 43 is not rendered obvious by Examiner's purported combination of references. The combination of Home '973 and Home '866 simply does not suggest the recited structure: *at least one projection on an elongated frame member of one of either the first assembly or the second assembly, the projection being in linear alignment with the elongated frame member.* Further, the combination of these references does not suggest *biasing the first portion of the projection against the inner surface of the receiver.* As yet another reason to overcome the obviousness rejection, neither Home '973 nor Home '866 disclose *a second frame assembly extending substantially lateral to the first frame member.* In fact, both Home '973 (see Fig. 1) and Home '866 (see Fig. 3) disclose frame assemblies that are stacked in a vertical configuration. For each of these reasons, amended Claim 29 is allowable over the combination of Home '973 and Home '866.

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Claim 44 depends from amended Claim 43 and further requires the biasing of the projection against the inner surface of the receiver to provide cantilever support of the second frame assembly. As explained in the preceding paragraph, Home '973 and Home '866 only disclose stacked or vertically arranged frame assemblies. Neither reference discloses or suggests the cantilever support of the second frame assembly that extends substantially lateral to the first frame assembly. For this reason and the reasons explained above for Claim 43, dependent Claim 44 is allowable.

Claims 45-49 depend from amended Claim 43 and thereby require all the limitations of that claim. For the reasons stated in the preceding paragraph, Claims 45-49 are allowable.

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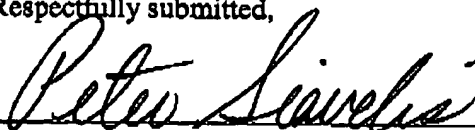
CONCLUSION

In view of the foregoing, Applicants believe the Application is in a condition for allowance, and respectfully request early notice of the same. Applicants request that the Examiner call the undersigned attorney if the Examiner has any questions concerning this Reply, or if it will expedite the progress of this Application.

Respectfully submitted,

Date: May 3, 2004

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this document is being facsimile transmitted to the Patent and Trademark Office, to the attention of Examiner Josiah Cocks, Art Unit No. 3749, on May 3, 2004, to Fax No. 703/872-9306.


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